

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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CLERKS OFFICE

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JOEL F. HOLUBAR
and
MARIANA H. HOLUBAR,

Plaintiffs

v.

KENT KHOLBERGER,
CHASE-FREEDMAN FAMILY TRUST
and
M/Y CHEROSA, *in rem*,

Defendants

Civil Action No. 03-CV-12404-NG

JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1(D)

This Joint Statement is submitted in accordance with Local Rule 16.1(D), in preparation for the Scheduling Conference on April 16, 2004.

Counsel for plaintiff and defendants have conferred, as required by Local Rule 16.1(B).

I. DISCOVERY PLAN

The parties have conferred but have not agreed on a discovery schedule. Their respective proposed discovery schedules are set forth below.

Plaintiffs' Proposal

- A. Written discovery requests shall be propounded by no later than May 14, 2004.
- B. Written discovery responses shall be served no later than 30 days after receipt of

discovery requests, on June 11, 2004.

- C. Depositions and all factual discovery shall be concluded by no later than July 9, 2004.
- D. Expert witnesses shall be designated no later than July 9, 2004.
- E. Expert Reports shall be produced no later than August 20, 2004.
- F. Production of Rebuttal Expert Reports shall be effected no later than September 3, 2004.
- G. All discovery concerning Expert witnesses and depositions of Expert witnesses shall be completed by September 15, 2004.

Defendants' Proposal

The Defendants propose phased discovery, pursuant to L.R. 16.1(D)(1)(b). Phase 1 would consist of fact discovery, including document production and depositions of fact witnesses, to develop information needed for all parties to make a realistic assessment of the case. The parties will make their initial disclosures under Rule 26(a)(1) by April 30, 2004 (within 14 days of the Scheduling Conference). Phase 1 discovery would close October 31, 2004.

If the case does not terminate, Phase 2 discovery would then be permitted, including: designation of expert witnesses, if any, and production of expert reports by January 15, 2005; production of rebuttal expert reports by March 1, 2005; and depositions of experts completed by April 15, 2005. The parties would make their Rule 26(a)(3) pretrial disclosures by August 1, 2005.

II. SCHEDULE FOR FILING MOTIONS

The parties have not agreed on a schedule for the filing of motions. Their respective proposed schedules for filing motions are set forth below.

(a) Plaintiffs' Proposal

A. All Motion concerning discovery matters shall be filed by July 9, 2004.

B. All dispositive motions shall be filed no later than October 1, 2004.

(b) Defendants' Proposal

Motions to amend and add parties, by September 1, 2004.

Motions for summary judgment, 45 days after the completion of discovery, by June 1, 2005.

III. CERTIFICATIONS

The certifications of defense counsel conference with the defendants (concerning litigation budgets and alternative dispute resolution options) required by Local Rule 16.1(D)(3) is attached to this Joint Statement. Plaintiffs' counsel's certification will be submitted separately to the Court by April 16, 2004.

IV. TRIAL BY MAGISTRATE-JUDGE

The parties do not consent to a trial by a Magistrate-Judge.

V. ALTERNATE DISPUTE RESOLUTION

No agreement exists at this time for consent to alternate dispute resolution.

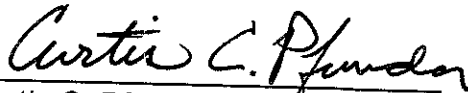
VI. SETTLEMENT PROPOSAL

Plaintiff presented a written settlement proposal to the defendants pursuant to Local Rule 16.1(C). Defense counsel will have conferred with their clients, and will

be prepared to respond to the proposal, at the Scheduling Conference on April 16, 2004.

Date: April 14, 2004

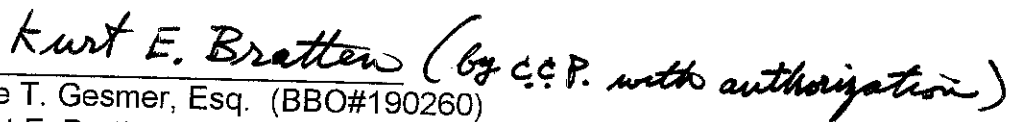
Respectfully submitted,



Curtis C. Pfunder (BBO# 397700) Attorneys for Defendants
92 State Street
Boston, MA 02109
(617) 248-0200

Edward C. Radzik
Donovan Parry McDermott & Radzik
Wall Street Plaza
88 Pine Street
New York, NY 10005
(212) 376-6400

Bjorn J. Holubar, Esq. Attorneys for Plaintiffs
770 Lexington Avenue, 7th Floor
New York, NY 10021
212 980-1992



Lee T. Gesmer, Esq. (BBO#190260)
Kurt E. Bratten, Esq. (BBO#644730)
Gesmer Updegrove, LLP
40 Broad Street
Boston, MA 02109
617 350-6800

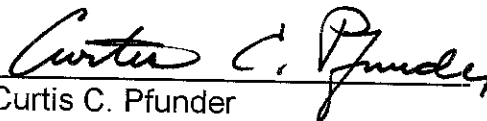
CERTIFICATION PURSUANT TO LOCAL RULE 16.1(D)(3)

Edward Radzik, co-counsel for the defendants, certifies that he has conferred with the defendants with respect to this lawsuit: (a) with a view to establishing a budget for the costs of conducting the full course -- and various alternative courses -- of the litigation; and (b) to consider the alternate dispute resolution programs such as those outlined in Local Rule 16.4 (D. Mass.).

Date: 4/14/04 Edward C. Radzik
Edward C. Radzik

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of April 2004 a copy of the above document was served upon the attorneys of record for each party by mail/~~by hand~~
~~delivery/fax/email~~, as shown below:


Curtis C. Pfunder

Kurt E. Bratten, Esq.
Gesmer Updegrove, LLP
40 Broad Street
Boston, MA 02109

Bjorn J. Holubar, Esq.
770 Lexington Avenue, 7th Floor
New York, NY 10021

Edward C. Radzik, Esq.
Donovan Parry McDermott & Radzik
Wall Street Plaza
88 Pine Street
New York, NY 10005